



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/848,713

Applicant : Doug Grumann

Filed : May 3, 2001

Title : METHOD AND APPARATUS TO EXTRACT THE HEALTH OF A SERVICE FROM A HOST MACHINE

TC/A.U. : 2442

Examiner : Benjamin A. Ailes

Docket No. : 10002681-1

Customer No. : 022879

Mail Stop Reply Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY BRIEF UNDER 37 C.F.R. §41.37

RESPONSE TO EXAMINER'S ANSWER

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I. SUMMARY

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The April 29, 2009 Final Office Action rejects claims 1-2, 4-8, 11-12, 14-22, and 24 under 35 U.S.C. §103(a) over "Systems Management: Application Response Measurement (ARM) API" (The Open Group) (hereafter "ARM API"), in view of U.S. Patent 6,633,908 to Leymann et al. (hereafter "Leymann"). However, the rejections as set forth in the Final Office Action, and as maintained in the Examiner's Answer, must fail because the applied references do not, individually and in combination, teach or suggest each and every limitation of claims 1, 11, 18, and 21 and the claims that depend therefrom.

II. ARGUMENT

A. Claims 1, 11, 18, and 21 Are Not Obvious

Independent claims 1, 11, 18, and 21 each recite a genetic output relating to current operational performance of the service. The Examiner asserts on page 14 of the Examiner's Answer that Leymann teaches in column 8, lines 3-14 the making of data available for all applications requesting the data by use of an invocation agent, that ARM API teaches in Figure 101 the use of the application response measurement API, and that the combination teaches the use of a genetic output.

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For all the reasons discussed above, claim 1 is patentable over ARM API in view of Leymann.

Claims 11, 18, and 21 recite features similar to those of claim 1, and for these reasons, claims 11, 18, and 21 also are patentable.

Claim 21 depends from patentable claim 1. For these reasons and the additional features it recites, claim 21 also is patentable.

B. Dependent Claims Are Not Obvious

Claims 2, 4-6, and 8 depend from patentable claim 1; claims 12, 14 and 17 depend from patentable claim 11; claims 19 and 20 depend from patentable claim 18; and claims 22 and 24 depend from patentable claim 21. For these reasons and the additional features they recite, claims 2, 4-6, 8, 12, 14, 17, 19, 20, 22, and 24 also are patentable.

III. CONCLUSION

For at least the reasons set forth above, the inventions recited in claims 1-2, 4-8, 11-12, 14-22, and 24 are not disclosed or suggested by ARM API and Leymann.¹ Therefore, Applicants respectfully request the withdrawal of the rejections and allowance of the pending claims.

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Respectfully submitted,

Date: December 14, 2009


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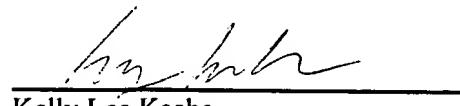
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